

REMARKS/ARGUMENTS

Claims 1-21 are pending.

Claims 14-21 are withdrawn from consideration.

Claims 1-13 are rejected.

Claim 12 has been canceled, without prejudice.

Claim 1 has been amended. Support for this amendment can be found throughout the specification and drawings, as originally filed.

Claims 22-33 have been added.

35 USC §102(b) REJECTION

Claims 1-4 and 6-13 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,592,937 to Nagata et al.

The Applicants respectfully traverse the 35 USC §102(b) rejection of claims 1-4, and 6-13. Claim 12 has been canceled, without prejudice. Therefore, the 35 USC §102(b) rejection thereof is moot.

The law is clear that anticipation requires that a single prior art reference disclose each and every limitation of the claim sought to be rejected. 35 U.S.C. §102(b).

The law is also clear that a claim in dependent form shall be construed to incorporate all the limitations of the claim to which it refers. 35 U.S.C. §112 ¶ 4.

In the interests of expediting the prosecution of the instant application, and without admission that any amendment is necessary, the Applicants have amended claim 1 to recite, among other things, an integral plastic and metal part comprising: (1) a metal component having a first opening therein; and (2) a plastic component disposed about at least a portion of said metal component, said plastic component being comprised of a plastic material, said plastic material

extending through said first opening and including a flange on one side thereof for securing said plastic component with said metal component in fixed relationship therebetween, wherein said plastic component includes at least one connection member extending outwardly therefrom, said at least one connection member having an area defining at least one connection portion formed therein, wherein said at least one connection portion is operable to receive a fastening member.

Nagata et al. teach no such structure.

Specifically, Nagata et al., among other things, fails to teach that the plastic and metal components are secured in fixed relationship therebetween.

Therefore, the Applicants contend that Nagata et al. does not anticipate claim 1 for at least the reasons set forth above. Furthermore, claims 2-4, 6-11 and 13, which depend from and further define claim 1, are likewise not anticipated by Nagata et al.

Accordingly, the Applicants submit that the 35 USC §102(b) rejection of claims 1-4, 6-11 and 13 has been overcome.

New claim 22 defines over Nagata et al by claiming, *inter alia*, that the metal structure forms a closed cross section having an opening therethrough. A plastic component is disposed about the exterior of said closed structure. The Office Action indicates that the closed structure of Nagata et al is given reference numeral 5 in Figure 1. Respectfully, the structure of reference numeral 5 is not a closed section of the type claimed. Further, the section 5 that is not open as a result of another member, does not include an opening therethrough for permitting plastic material to extend therethrough. Further, Nagata et al fail to teach that the plastic and metal components are secured in fixed relationship therebetween as claimed. Accordingly, the new claims are not anticipated by Nagata et al.

The standard for obviousness is that there must be some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed

invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability and, thus, the obviousness, of making" the modification to the art suggested by the Examiner. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q.2d 1434, 1438 (Fed.Cir.1988), *cert. denied*, 488 U.S. 825 (1988). Although the Examiner may suggest the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the desirability of such modification. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d 1397, 1398 (Fed.Cir.1989). There must be a teaching in the prior art for the proposed combination or modification to be proper. *In re Newell*, 891 F.2d 899, 13 U.S.P.Q.2d 1248 (Fed.Cir.1989). If the prior art fails to provide this necessary teaching, suggestion, or incentive supporting the Examiner's suggested modification, the rejection based upon this suggested modification is in error and must be reversed. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed.Cir.1990).

As previously noted, Nagata et al. fail to disclose that the plastic and metal components are secured in fixed relationship therebetween. In fact, Nagata et al. discloses the exact opposite, i.e., that the plastic and metal components, one secured to one another, are nonetheless slidable relative to one another (see column 3, lines 35-41). Therefore, one of ordinary skill in the art would not look to Nagata et al. to construct an integral plastic and metal part, as presently claimed.

Accordingly, the Applicants submit that claims 1-4, 6-11 and 13 are not rendered obvious by Nagata et al.

35 USC §102(e) REJECTION

Claims 1-13 stand rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,708,583 to Palmer et al.

The Applicants respectfully traverse the 35 USC §102(e) rejection of claims 1-13. Claim 12 has been canceled, without prejudice. Therefore, the 35 USC §102(e) rejection thereof is moot.

The law is clear that anticipation, under 35 U.S.C. §102(e), requires that the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

In the interests of expediting the prosecution of the instant application, and without admission that any amendment is necessary, the Applicants have amended claim 1 to recite, among other things, an integral plastic and metal part comprising: (1) a metal component having a first opening therein; and (2) a plastic component disposed about at least a portion of said metal component, said plastic component being comprised of a plastic material, said plastic material extending through said first opening and including a flange on one side thereof for securing said plastic component with said metal component in fixed relationship therebetween, wherein said plastic component includes at least one connection member extending outwardly therefrom, said at least one connection member having an area defining at least one connection portion formed therein, wherein said at least one connection portion is operable to receive a fastening member.

Palmer et al teaches no such structure.

Specifically, Palmer et al, among other things, fails to teach that the plastic component includes at least one connection member extending outwardly therefrom, said at least one connection member having an area defining at least one connection portion formed therein, wherein said at least one connection portion is operable to receive a fastening member.

Therefore, the Applicants contend that Palmer et al does not anticipate claim 1 for at least the reasons set forth above. Furthermore, claims 2-11 and 13, which depend from and further define claim 1, are likewise not anticipated by Palmer et al.

Accordingly, the Applicants submit that the 35 USC §102(e) rejection of claims 1-11 and 13 has been overcome.

As previously noted, Palmer et al fail to disclose that the plastic component includes at least one connection member extending outwardly therefrom, said at least one connection member having an area defining at least one connection portion formed therein, wherein said at least one connection portion is operable to receive a fastening member. Therefore, one of ordinary skill in the art would not look to Palmer et al to construct an integral plastic and metal part, as presently claimed.

Accordingly, the Applicants submit that claims 1-11 and 13 are not rendered obvious by Palmer et al.

With respect to the new claims, new claim 22 defines over Palmer et al by specifically claiming a metal part having a closed cross section and having the plastic material extending about the exterior of the closed cross section. Palmer et al disclose a U-shaped metal section. Further, Palmer et al do not disclose a portion of the plastic material extending about the exterior of the closed cross section. Rather, the plastic component of Palmer et al comprises the ribs which extend on the interior of the U-shaped section. Accordingly, Palmer et al do not anticipate new claims 22-33.

CONCLUSION


In view of the foregoing, the Applicant respectfully requests reconsideration and reexamination of the Application. The Applicant respectfully submits that each item raised by the Examiner in the Office Action of July 15, 2004 has been successfully traversed, overcome or rendered moot by this response. The Applicant respectfully submits that each of the claims in this Application is in condition for allowance and such allowance is earnestly solicited.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 364-4300 if any unresolved matters remain.

Any needed extension of time is hereby requested with the filing of this document.

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1612 (Warn Hoffmann Miller & LaLone). A duplicate copy of this letter is enclosed herewith.

Respectfully submitted,

by 

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